

Senate Chamber, Atlanta, Georgia  
Thursday, January 26, 2006  
Ninth Legislative Day

The Senate met pursuant to adjournment at 10:00 a.m. today and was called to order by the President.

Senator Balfour of the 9th reported that the Journal of the previous legislative day had been read and found to be correct.

By unanimous consent, the reading of the Journal was dispensed with.

The Journal was confirmed.

The following message was received from the House through Mr. Rivers, the Clerk thereof:

Mr. President:

The House has passed by the requisite constitutional majority the following Bills of the House:

HB 713. By Representatives Franklin of the 43rd, Richardson of the 19th, Keen of the 179th, Burkhalter of the 50th, Ehrhart of the 36th and others:

A BILL to be entitled an Act to amend Chapter 4 of Title 1 of the Official Code of Georgia Annotated, relating to holidays and observations, so as to declare Ronald Reagan Day in Georgia; to make certain legislative observations; to repeal conflicting laws; and for other purposes.

HB 1068. By Representatives Ehrhart of the 36th, Tumlin of the 38th, Parsons of the 42nd, Manning of the 32nd, Golick of the 34th and others:

A BILL to be entitled an Act to amend an Act providing for the election of members of the Board of Education of Cobb County, approved March 28, 1974 (Ga. L. 1974, p. 3516), as amended, so as to provide for procedures relating to the establishment or revision of school attendance zones; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The House has agreed to the Senate amendment to the House substitute to the following Bill of the Senate:

SB 84. By Senators Staton of the 18th, Williams of the 19th, Chapman of the 3rd, Rogers of the 21st, Chance of the 16th and others:

A BILL to be entitled an Act to amend Code Section 21-2-417 of the Official Code of Georgia Annotated, relating to form of proper identification at polls, so as to change the forms of identification that are acceptable at the polls; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The following communication was received by the Secretary:

Senator Preston Smith  
District 52  
301-A Coverdell Office Building  
Atlanta, GA 30334

**Committees:**

Appropriations  
Judiciary  
Ethics  
Health and Human Services  
Reapportionment and Redistricting  
Retirement

The State Senate  
Atlanta, Georgia 30334

January 26, 2006

Mr. Frank Eldridge, Jr.  
Secretary of the Senate  
353 State Capitol  
18 Capitol Square  
Atlanta, GA 30334

Re: SB 382

Dear Frank:

On Wednesday, January 26, 2006, I was excused from the Senate chamber for business outside the Capitol. It has come to my attention that someone apparently pushed a voting button on my desk machine during the vote on amendment number two to SB 382. There could be a simple explanation such as a page or other person laying something on my desk and inadvertently pushing the button. Or, someone may have intentionally (and improperly) voted my machine.

Nevertheless, the recorded votes show that I was excused before and through the first amendment on SB 382. Then a vote was improperly recorded for amendment number two, causing the computer to remove me the excused status. No vote was cast for

amendment number three but, of course, the computer had already removed me from the excused status. Before the vote on amendment number four, Sen. Seabaugh realized the error and made a second motion to excuse me. Accordingly, the remainder of the votes on the amendments and underlying bill reflect that I was excused. I should have been excused for the entirety of the amendments (including the votes on amendments two and three). I wanted to send you written notice of this in the event that the record needs to be corrected or reflected differently. Please let me know if you have any questions or concerns.

Sincerely,

/s/ Preston W. Smith

The following Senate legislation was introduced, read the first time and referred to committee:

SB 455. By Senators Shafer of the 48th and Wiles of the 37th:

A BILL to be entitled an Act to amend Article 3 of Chapter 11 of Title 16 of the O.C.G.A., relating to invasions of privacy, so as to define certain terms; to provide that it shall be illegal for a customer proprietary network information broker to obtain or release certain customer information; to provide for penalties; to provide for exceptions; to amend Code Section 43-38-11 of the O.C.G.A., relating to denial, revocation, or sanction of licenses and registrations, action by the Georgia Board of Private Detective and Security Agencies, and judicial review, so as to provide that it shall be grounds for such board to deny or revoke a license if the applicant has obtained certain customer information; to amend Chapter 5 of Title 46 of the O.C.G.A., relating to telephone and telegraph service, so as to define certain terms; to provide that no telecommunications company may release certain customer information; to provide for rules and regulations; to provide for exceptions; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Science and Technology Committee.

SB 456. By Senators Wiles of the 37th and Shafer of the 48th:

A BILL to be entitled an Act to amend Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to invasions of privacy, so as to provide that it shall be unlawful to disseminate certain information relating to mobile telephone usage without the express consent of the subscriber; to provide that it shall be unlawful for an officer, employee, agent, or other person affiliated with a mobile telephone service provider to disseminate such

information; to provide that it shall be unlawful to buy or otherwise obtain such information; to provide for penalties; to provide an exception; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Science and Technology Committee.

SB 457. By Senators Hill of the 4th and Williams of the 19th:

A BILL to be entitled an Act to amend Code Section 45-18-10 of the Official Code of Georgia Annotated, relating to the right of continuation of insurance benefits for former state employees, so as to provide an exemption from the eight-year service requirement for correctional officers injured by inmate violence when five years or less from becoming eligible for medicare medical coverage; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Appropriations Committee.

SB 458. By Senators Jones of the 10th, Seay of the 34th, Butler of the 55th, Tate of the 38th, Meyer von Bremen of the 12th and others:

A BILL to be entitled an Act to amend Title 22 of the Official Code of Georgia Annotated, relating to eminent domain, so as to provide for nonbinding arbitration of proposed takings under certain circumstances; to provide for the review of the legality of a proposed taking; to provide for the stay of certain proceedings; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

SB 459. By Senators Jones of the 10th, Seay of the 34th, Butler of the 55th, Tate of the 38th, Brown of the 26th and others:

A BILL to be entitled an Act to amend Title 8 of the O.C.G.A., relating to buildings and housing, so as to redefine blighted areas; to provide that the condemnation of private property by housing authorities must first be approved by the governing authority of the county or municipality in which such property is located; to amend Chapter 1 of Title 22 of the O.C.G.A., relating to general provisions regarding eminent domain, so as to require that authorities with the power of eminent domain shall not exercise such power with regard to private property without first obtaining approval by the governing authority; to amend Title 36 of the O.C.G.A., relating to local government, so as to provide that county and municipal authorities with the power of eminent domain shall

not exercise such power with regard to private property without first obtaining approval by the governing authority; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

SB 460. By Senators Jones of the 10th, Seay of the 34th, Butler of the 55th, Tate of the 38th, Brown of the 26th and others:

A BILL to be entitled an Act to amend Title 22 of the Official Code of Georgia Annotated, relating to eminent domain, so as to require condemnors to negotiate in good faith; to require that special masters meet certain qualifications; to permit the consideration of certain expenses and intangible values in ascertaining the proper amount of compensation for property; to provide for the consideration by the condemnor of alternative sites and options; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

SB 461. By Senators Jones of the 10th, Seay of the 34th, Butler of the 55th, Tate of the 38th, Meyer von Bremen of the 12th and others:

A BILL to be entitled an Act to amend Title 22 of the Official Code of Georgia Annotated, relating to eminent domain, so as to require that condemnors provide the owner of the property sought to be condemned through the exercise of the power of eminent domain notice of the property owner's rights and a description of the condemnation process to be employed; to provide for the contents of such notice; to provide that the Department of Community Affairs shall promulgate such notice for use by condemnors; to provide for sanctions for failure to provide such notice; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

SB 462. By Senators Carter of the 13th, Kemp of the 46th, Hamrick of the 30th, Mullis of the 53rd and Miles of the 43rd:

A BILL to be entitled an Act to amend Article 1 of Chapter 16 of Title 15 of the Official Code of Georgia Annotated, relating to general provisions for sheriffs, so as to place courthouse security under the authority of the sheriff; to require a courthouse security plan which shall be subject to the approval of the chief superior court judge; to amend Chapter 9 of Title 36 of the Official Code

of Georgia Annotated, relating to county property generally, so as to remove courthouses and jails from the list of properties protected; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Public Safety and Homeland Security Committee.

SB 463. By Senator Douglas of the 17th:

A BILL to be entitled an Act to amend Code Section 27-2-3.1 of the Official Code of Georgia Annotated, relating to archery and primitive weapons hunting licenses, all weapons hunting licenses, sportsmen's licenses, license card carrier requirements, and creation of lifetime sportsman's licenses, so as to provide for veterans' lifetime sportsman's licenses and fees therefor; to repeal conflicting laws; and for other purposes.

Referred to the Natural Resources and the Environment Committee.

The following House legislation was read the first time and referred to committee:

HB 713. By Representatives Franklin of the 43rd, Richardson of the 19th, Keen of the 179th, Burkhalter of the 50th, Ehrhart of the 36th and others:

A BILL to be entitled an Act to amend Chapter 4 of Title 1 of the Official Code of Georgia Annotated, relating to holidays and observations, so as to declare Ronald Reagan Day in Georgia; to make certain legislative observations; to repeal conflicting laws; and for other purposes.

Referred to the Rules Committee.

HB 1068. By Representatives Ehrhart of the 36th, Tumlin of the 38th, Parsons of the 42nd, Manning of the 32nd, Golick of the 34th and others:

A BILL to be entitled an Act to amend an Act providing for the election of members of the Board of Education of Cobb County, approved March 28, 1974 (Ga. L. 1974, p. 3516), as amended, so as to provide for procedures relating to the establishment or revision of school attendance zones; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

The following committee reports were read by the Secretary:

Mr. President:

The Health and Human Services Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SB 435      Do Pass

Respectfully submitted,  
Senator Thomas of the 54th District, Chairman

Mr. President:

The Higher Education Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SB 440      Do Pass  
SR 655      Do Pass

Respectfully submitted,  
Senator Harp of the 29th District, Chairman

Mr. President:

The Special Judiciary Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SB 249      Do Pass as amended

Respectfully submitted,  
Senator Meyer von Bremen of the 12th District, Chairman

Mr. President:

The Transportation Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SR 686      Do Pass

Respectfully submitted,  
Senator Stephens of the 27th District, Chairman

The following legislation was read the second time:

SB 390

Senator Goggans of the 7th asked unanimous consent that Senator Moody of the 56th be excused. The consent was granted, and Senator Moody was excused.

Senator Weber of the 40th asked unanimous consent that Senator Henson of the 41st be excused. The consent was granted, and Senator Henson was excused.

Senator Weber of the 40th asked unanimous consent that Senator Wiles of the 37th be excused. The consent was granted, and Senator Wiles was excused.

Senator Pearson of the 51st asked unanimous consent that Senator Rogers of the 21st be excused. The consent was granted, and Senator Rogers was excused.

Senator Meyer von Bremen of the 12th asked unanimous consent that Senator Thompson of the 33rd be excused. The consent was granted, and Senator Thompson was excused.

Senator Meyer von Bremen of the 12th asked unanimous consent that Senator Zamarripa of the 36th be excused. The consent was granted, and Senator Zamarripa was excused.

The roll was called and the following Senators answered to their names:

Balfour	Hill,Jack	Shafer,D
Brown	Hill,Judson	Smith
Bulloch	Hooks	Starr
Butler	Hudgens	Staton
Cagle	Johnson	Stephens
Carter	Jones	Stoner
Chance	Kemp	Tarver
Chapman	Me V Bremen	Tate
Douglas	Miles	Thomas,D
Goggans	Mullis	Thomas,R
Golden	Pearson	Thompson,C
Grant	Powell	Unterman
Hamrick	Reed	Weber
Harbison	Schaefer	Whitehead
Harp	Seabaugh	Williams
Heath	Seay	

Not answering were Senators:



Adelman	Fort	Henson (Excused)
Moody (Excused)	Rogers (Excused)	Thompson, S (Excused)
Tolleson	Wiles (Excused)	Zamarripa (Excused)

The following members were off the floor of the Senate when the roll was called and wished to be recorded as present:

Senators:           Fort                           Tolleson

The members pledged allegiance to the flag.

Senator Pearson of the 51st introduced the chaplain of the day, Pastor Austin Gardner of Alpharetta, Georgia, who offered scripture reading and prayer.

The following resolutions were read and adopted:

SR 722. By Senators Tolleson of the 20th and Bulloch of the 11th:

A RESOLUTION recognizing the year of 2006 as the 75th Anniversary Celebration of Georgia's State Parks and Historic Sites; and for other purposes.

SR 723. By Senators Whitehead, Sr. of the 24th, Cagle of the 49th, Moody of the 56th, Kemp of the 46th, Goggans of the 7th and others:

A RESOLUTION commending the Professional Association of Georgia Educators (PAGE) and recognizing "PAGE Day on Capitol Hill"; and for other purposes.

SR 724. By Senator Williams of the 19th:

A RESOLUTION commending Mr. and Mrs. Raleigh Wilcox on the occasion of their sixtieth wedding anniversary; and for other purposes.

SR 725. By Senator Starr of the 44th:

A RESOLUTION congratulating Mrs. Lois Doggett Clayborn on the occasion of her 100th birthday; and for other purposes.

SR 726. By Senator Hill of the 32nd:

A RESOLUTION remembering and honoring the life of Robert J. Haffamier; and for other purposes.

SR 727. By Senators Smith of the 52nd, Williams of the 19th, Harp of the 29th, Carter of the 13th, Kemp of the 46th and others:

A RESOLUTION commending and remembering the life of Richard Thomas Hickman; and for other purposes.

SR 728. By Senator Tolleson of the 20th:

A RESOLUTION commending David M. Word; and for other purposes.

Senator Tolleson of the 20th recognized representatives of Georgia's registered nurses, commended by SR 683, adopted previously.

Senator Douglas of the 17th presented a Georgia state flag carried into battle by the 48th Brigade to the Georgia State Senate.

Senator Chance of the 16th introduced Mayor Harold Logsdon of Peachtree City.

SENATE RULES CALENDAR  
THURSDAY, JANUARY 26, 2006  
NINTH LEGISLATIVE DAY

SB 120      Broadband, Voice over Internet, Wireless; no requirements by any state agency (Substitute)(Amendment)(RI&Util-28th)

Respectfully submitted,

/s/ Balfour of the 9th, Chairman  
Senate Rules Committee

The following legislation was read the third time and put upon its passage:

Senator Adelman of the 42nd asked unanimous consent that he be excused from voting on SB 120 pursuant to Senate Rule 5-1.8(d). The consent was granted, and Senator Adelman was excused.

Senator Smith of the 52nd asked unanimous consent that Senator Johnson of the 1st be excused. The consent was granted, and Senator Johnson was excused.

Senator Smith of the 52nd asked unanimous consent that Senator Unterman of the 45th be excused. The consent was granted, and Senator Unterman was excused.

SB 120. By Senators Seabaugh of the 28th, Balfour of the 9th, Stoner of the 6th, Chance of the 16th, Hill of the 32nd and others:

A BILL to be entitled an Act to amend Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to telephone and telegraph service, so as to provide legislative findings and intent; to provide definitions; to provide that no state agency shall impose any requirement on broadband service, voice over Internet protocol, or wireless service; to provide that existing requirements are void; to provide for exceptions and construction; to provide an effective date; to repeal conflicting laws; and for other purposes.

The Senate Regulated Industries and Utilities Committee offered the following substitute to SB 120:

A BILL TO BE ENTITLED  
AN ACT

To enact the "Competitive Emerging Communications Technologies Act of 2006"; to provide legislative findings; to amend Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to telephone and telegraph service, so as to provide definitions; to provide that the Georgia Public Service Commission shall not impose any requirement relating to rates or terms and conditions for the offering of broadband service, voice over Internet protocol, or wireless service; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

The General Assembly finds:

- (1) That it is in the public interest to encourage deployment of the emerging communications technologies of broadband service, voice over Internet protocol, and wireless service by expressly removing any power the Georgia Public Service Commission may have to set the rates and the terms and conditions for the offering of such services within Georgia;
- (2) That market based competition is the best mechanism for the selection and setting of such rates, terms, and conditions for such emerging communications technologies and to encourage the adoption and use of such services by Georgia consumers; and
- (3) That Georgia's consumers need timely and accurate information as to the actual cost and levels of delivered service in order to make informed market based choices among competing offerings of such emerging communications technologies.

**SECTION 2.**

Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to telephone

and telegraph service, is amended by inserting a new article to be designated Article 6 to read as follows:

**"ARTICLE 6**

46-5-200.

This article shall be known and may be cited as the 'Competitive Emerging Communications Technologies Act of 2006.'

46-5-201.

As used in this article, the term:

(1) 'Broadband service' means a service that consists of the capability to transmit at a rate not less than 200 kilobits per second in either the upstream or downstream direction and in combination with such service provide either:

(A) Access to the Internet; or

(B) Computer processing, information storage, or protocol conversion.

For the purposes of this article, broadband service does not include any information content or service applications provided over such access service nor any intrastate service that was subject to a tariff in effect as of September 1, 2005.

(2) 'VoIP' means voice over Internet protocol services offering real time multidirectional voice functionality utilizing any Internet protocol.

(3) 'Wireless service' means commercial mobile radio service carried on between mobile stations or receivers and land stations and by mobile stations communicating among themselves.

46-5-202.

(a) The Public Service Commission shall not have any jurisdiction, right, power, authority, or duty to impose any requirement or regulation relating to the setting of rates or terms and conditions for the offering of broadband service, VoIP, or wireless service.

(b) This Code section shall not be construed to affect:

(1) State laws of general applicability to all businesses, including, without limitation, consumer protection laws and laws relating to restraint of trade; or

(2) Any authority of the Public Service Commission to act in accordance with federal laws or regulations of the Federal Communications Commission, including, without limitation, jurisdiction granted to set rates, terms, and conditions for access to unbundled network elements and to arbitrate and enforce interconnection agreements.

(c) Except as otherwise expressly provided in this Code section, nothing in this Code section shall be construed to restrict or expand any other authority or jurisdiction of the Public Service Commission."

**SECTION 3.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

**SECTION 4.**

All laws and parts of laws in conflict with this Act are repealed.

Senators Seabaugh of the 28th, Thomas of the 2nd and Shafer of the 48th offered the following amendment:

*Amend the Senate Regulated Industries and Utilities Committee substitute to SB 120 (LC 36 0023ERS) by striking lines 24 through 30 of page 2 and inserting in lieu thereof the following:*

(b) This Code section shall not be construed to affect:

- (1) State laws of general applicability to all businesses, including, without limitation, consumer protection laws and laws relating to restraint of trade;
- (2) Any authority of the Public Service Commission with regard to consumer complaints; or
- (3) Any authority of the Public Service Commission to act in accordance with federal laws or regulations of the Federal Communications Commission, including, without limitation, jurisdiction granted to set rates, terms, and conditions for access to unbundled network elements and to arbitrate and enforce interconnection agreements.

On the adoption of the amendment, the yeas were 33, nays 0, and the Seabaugh et al. amendment was adopted.

On the adoption of the substitute, the yeas were 37, nays 0, and the committee substitute was adopted as amended.

The report of the committee, which was favorable to the passage of the bill by substitute, was agreed to as amended.

On the passage of the bill, a roll call was taken, and the vote was as follows:

E Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
N Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	E Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	N Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	Y Miles	Y Thomas,R
Y Douglas	Y Moody	Y Thompson,C
N Fort	Y Mullis	E Thompson,S
Y Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	E Unterman

Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Heath	Y Seay	E Zamarripa
E Henson	Y Shafer,D	

On the passage of the bill, the yeas were 46, nays 3.

SB 120, having received the requisite constitutional majority, was passed by substitute.

Senator Hill of the 32nd introduced the doctor of the day, Dr. J. Thomas Cooper.

The following resolution was read and adopted:

HR 1114. By Representative Keen of the 179th:

#### A RESOLUTION

Relative to adjournment; and for other purposes.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that, unless otherwise provided by subsequent resolution of the General Assembly, the meeting dates and dates of adjournment for the 2006 regular session of the General Assembly for the period of January 23, 2006, through February 6, 2006, shall be as follows:

Monday, January 23 .....in session for legislative day 6  
 Tuesday, January 24.....in session for legislative day 7  
 Wednesday, January 25.....in session for legislative day 8  
 Thursday, January 26 .....in session for legislative day 9  
 Friday, January 27 .....in adjournment  
 Saturday, January 28 .....in adjournment  
 Sunday, January 29 .....in adjournment  
 Monday, January 30 .....in adjournment  
 Tuesday, January 31 .....in session for legislative day 10  
 Wednesday, February 1.....in session for legislative day 11  
 Thursday, February 2 .....in session for legislative day 12  
 Friday, February 3 .....in session for legislative day 13  
 Saturday, February 4 .....in adjournment  
 Sunday, February 5 .....in adjournment  
 Monday, February 6 .....in session for legislative day 14

BE IT FURTHER RESOLVED that on and after February 6, 2006, the periods of adjournment of the 2006 session, if any, shall be as specified by subsequent resolution of the General Assembly, except that for the remainder of the 2006 regular session, unless otherwise provided by subsequent resolution, the General Assembly shall adjourn at the close of the legislative day on each Friday on which the General Assembly is in session and shall reconvene on the following Monday.

BE IT FURTHER RESOLVED that, as authorized by Code Section 28-1-2, the hours for closing and convening the Senate on each day may be as ordered by the Senate; and the hours for closing and convening the House on each day may be as ordered by the House.

Senator Tolleson of the 20th recognized Georgia State Parks representatives, commended by SR 722, adopted previously.

Senator Williams of the 19th moved that the Senate stand adjourned pursuant to HR 1114 until 1:00 p.m. Tuesday, January 31, 2006; the motion prevailed, and at 11:10 a.m. the President announced the Senate adjourned.